

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

U.S. BANK TRUST, N.A., AS TRUSTEE
FOR LSF9 MASTER PARTICIPATION
TRUST,

Plaintiff,

v.

CIVIL ACTION NO. 3:20-CV-30007-MGM

LORI J. ANDRAS, AND
AMERIQUEST MORTGAGE COMPANY,
Defendants.

X

MOTION TO STAY PROCEEDINGS

NOW COMES U.S. Bank Trust, N.A., as Trustee for LSF9 Master Participation Trust (“U.S. Bank”), by and through the undersigned counsel, and hereby requests that this Court stay the instant action pending the expiration of the foreclosure moratorium established under Chapter 65 of the Acts of 2020. *See* Act Providing for a Moratorium on Evictions and Foreclosures during the COVID-19 Emergency, 2020 Mass. Legis. Serv. Ch. 65 § 5(a) (WEST Apr. 20, 2020)[hereinafter referred to as “Chapter 65”]. As a reason therefore, U.S. Bank states as follows:

1. This action arises out of a mortgage on the property located at 67 Woodside Terrace, Westfield, MA 01085 (the “Property”), given by Lori J. Andras and Edward F. Andras, Jr. to Ameriquest Mortgage Company (“Ameriquest”) dated May 25, 2005, and recorded with the Hampden County Registry of Deeds in Book 15069, Page 560 (“Andras Mortgage”). *See* Exhibit A (a true and correct copy of the Andras Mortgage is attached hereto and incorporated herein).
2. U.S. Bank is the holder/owner of the Promissory Note in the amount of \$109,000.00, dated May 25, 2005, executed and delivered by Lori J. Andras to Ameriquest (“Andras Note”), which is secured by the Andras Mortgage. *See* Exhibit B (a true and correct copy of the

Andras Note is attached hereto and incorporated herein).

3. Ameriquest ceased its operations in May of 2006.
4. As a result of a defective chain of Assignments of Mortgage, Ameriquest remains the mortgagee of record of the Andras Mortgage.
5. The mortgagors defaulted under the terms of the Andras Mortgage Loan Contract as a result of their failure to make the December 1, 2014, payment, and all subsequent payments due thereunder.
6. Edward F. Andras, Jr. passed away on June 2, 2016.
7. Because Ameriquest is no longer in business, U.S. Bank is unable to obtain a proper Assignment of the Andras Mortgage.
8. U.S. Bank commenced the instant action on January 16, 2020, seeking an equitable order of assignment, as well as foreclosure related relief.
9. Lori J. Andras was served with a copy of the Summons and Complaint on January 30, 2020, and Ameriquest was served on February 24, 2020. *See* ECF Dkt. Nos. 6 & 7.
10. Neither Defendant has filed an Answer or otherwise responded to the Complaint.
11. On April 20, 2020, Massachusetts enacted an Act Providing for a Moratorium on Evictions and Foreclosures during the COVID-19 Emergency, 2020 Mass. Legis. Serv. Ch. 65 (WEST Apr. 20, 2020)[hereinafter referred to as “Chapter 65”].
12. Pursuant to Chapter 65, § 5(a), a mortgagee shall not
 - (i) cause a notice of a foreclosure sale to be published pursuant to said section 14 of said chapter 244; (ii) exercise a power of sale; (iii) exercise a right of entry; (iv) initiate a judicial or non-judicial foreclosure process; or (v) file a complaint to determine the military status of a mortgagor under the federal Servicemembers Civil Relief Act, 50 USC sections 3901 to 4043, inclusive.
13. The foreclosure moratorium established under Chapter 65 was initially scheduled to expire

on August 18, 2020. *See* 2020 Mass. Legis. Serv. Ch. 65 § 7.

14. Pursuant to Chapter 65, § 7, the Governor is authorized to extend the foreclosure moratorium in increments of not more than 90 days so long as the COVID-19 Emergency Declaration remains in place.
15. Pursuant to the statutory grant of authority conferred by Chapter 65, § 7, on July 21, 2020, Governor Baker extended the foreclosure moratorium established under Chapter 65 through October 17, 2020. *See* Press Release, Governor's Press Office, Baker-Polito Administration Extends Moratorium on Evictions and Foreclosures to October 17 (July 21, 2020)(publicly available at <https://www.mass.gov/news/baker-polito-administration-extends-moratorium-on-evictions-and-foreclosures-to-october-17>)(last visited on August 27, 2020).
16. Although neither Defendant filed an Answer or otherwise responded to the Complaint within 21 days of being served with the same, the foreclosure moratorium established under Chapter 65, § 5(a) prohibits U.S. Bank from taking further action with respect to its claims for foreclosure related relief.
17. To date, the COVID-19 Emergency Declaration remains in place, and it is anticipated that the foreclosure moratorium established under Chapter 65, § 5(a) will be extended on at least one more occasion.
18. As such, this Court should stay the instant action pending the expiration of the foreclosure moratorium established under Chapter 65, § 5(a).

WHEREFORE, U.S. Bank respectfully requests that this Court grant its Motion, stay the instant action pending the expiration of the foreclosure moratorium established under Chapter 65, § 5(a), and for such other and further relief as this Court may deem just and proper.

Respectfully Submitted,

U.S. Bank Trust N.A., as Trustee for LSF9
Master Participation Trust
By its attorneys,

Dated: August 27, 2020

/s/ Brian C. Linehan, Esq.
Brian Linehan, Esq. (BBO #690437)
Reneau J. Longoria, Esq. (BBO# 635118)
John A. Doonan, Esq. (BBO #547838)
Patrick Beaton, Esq. (BBO #661215)
Elizabeth W. Dailey, Esq. (BBO #562178)
DOONAN, GRAVES & LONGORIA, LLC
100 Cummings Center, Suite 225D
Beverly, MA 01915
Tel. (978) 921-2670
bl@dgandl.com

CERTIFICATE OF SERVICE

I, Brian C. Linehan, Esq., hereby certify that this document, filed through the ECF system, will be sent to those indicated as non-registered participants by first class mail, postage prepaid on September 4, 2020.

Lori J. Andras
67 Woodside Terrace
Westfield, MA 01085

Ameriquist Mortgage Company
c/o Secretary of the Commonwealth
Corporations Division
McCormack Building
One Ashburton Place, 17th Floor
Boston, MA 02108

/s/ Brian C. Linehan
Brian C. Linehan, Esq.